CONFERENCE COMMITTEE REPORT
DIGEST FOR EHB 2100

Citations Affected: IC 12-7-2-149; IC 12-15-26-3; IC 12-15-26-4; IC 12-15-35.

Synopsis: Medicaid prescription drugs and immunization registry. Provides that a Medicaid recipient who is not enrolled in the risk-based managed care program may not be restricted access to a prescription drug for mental illness. Amends requirements of the drug utilization review board concerning prior authorization programs and programs to reduce costs in the Medicaid outpatient prescription drug program. Requires the office of Medicaid policy and planning (OMPP) to develop an immunization data registry. Defines "provider" for purposes of the immunization registry. Allows OMPP to delegate the authority for the development of the registry to a for-profit or nonprofit agency that, working in conjunction with the state department of health, demonstrates certain abilities. Specifies that the parent or guardian of a child may elect not to have the child's immunization records included in the registry. Requires OMPP to apply for federal approval and funding for the immunization data registry. Requires OMPP to develop guidelines for providers to use in reporting immunization data. Extends the prescription drug advisory committee until December 2003. Requires the prescription drug advisory committee to work to expand the current program design to provide an increased benefit to cover a higher percentage of out of pocket costs. Requires the office of Medicaid policy and planning to report to the Indiana commission on mental health regarding the cost effectiveness of allowing Medicaid recipients unrestricted access to prescription drugs that are prescribed for mental illness. Requires the division of family and children to adopt rules to require a child who is less than 18 years of age and resides in a family that receives monthly cash assistance payments through the federal Temporary Assistance to Needy Families program to receive certain immunizations. (This conference committee report: (1) amends requirements of the drug utilization review board concerning prior authorization programs and programs to reduce costs in the Medicaid outpatient prescription drug program; (2) defines "provider" for purposes of the immunization registry; (3) extends the prescription drug advisory committee until December 2003; (4) requires the prescription drug advisory committee to work to expand the current program design to provide an increased benefit to cover a higher percentage of out of pocket costs; (5) makes a technical change; (6) provides that a Medicaid recipient who is not enrolled in the risk-based managed care program may not be restricted access to a prescription drug for mental illness and requires OMPP to report to the Indiana commission on mental health by March 1, 2003, regarding the cost effectiveness of allowing Medicaid recipients unrestricted access to prescription drugs that are prescribed for mental illness; and (7) requires the division

of family and children to adopt rules to require a child who is less than 18 years of age and resides in a family that receives monthly cash assistance payments through the federal Temporary Assistance to Needy Families program to receive certain immunizations.)

Effective: Upon passage; July 1, 2001.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 2100 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 12-7-2-149, AS AMENDED BY P.L.14-2000, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 149. "Provider" means the following:

(1) For purposes of IC 12-10-7, the meaning set forth in IC 12-10-7-3.

(2) For purposes of the following statutes, an individual, a partnership, a corporation, or a governmental entity that is enrolled in the Medicaid program under rules adopted under IC 4-22-2 by the office of Medicaid policy and planning:

(A) IC 12-14-1 through IC 12-14-9.5.

(B) IC 12-15, except IC 12-15-32, IC 12-15-33, ~~and~~ IC 12-15-34 **and IC 12-15-41.2.**

(C) IC 12-17-10.

(D) IC 12-17-11.

(E) IC 12-17.6.

(3) For purposes of IC 12-17-9, the meaning set forth in IC 12-17-9-2.

(4) For the purposes of IC 12-17.2, a person who operates a child care center or child care home under IC 12-17.2.

(5) For purposes of IC 12-17.4, a person who operates a child

caring institution, foster family home, group home, or child placing agency under IC 12-17.4.

(6) For purposes of IC 12-15-41.2, a person that provides an immunization to a Medicaid recipient.

SECTION 2. IC 12-15-26-3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3. (a) This section does not apply to an individual enrolled in the risk-based managed care program.**

(b) A recipient under the Medicaid program may not be denied access to or restricted in the use of a prescription drug for the treatment of a mental illness.

(c) This section expires December 31, 2002.

SECTION 3. IC 12-15-26-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4. (a) This section does not apply to an individual enrolled in the risk-based managed care program.**

(b) The office and any entity that provides prescription drugs to a Medicaid recipient shall make available to Medicaid recipients prescription drugs that are used for the treatment of a mental illness without any restrictions or limitations, including prior authorization, when the prescription drug is used for the treatment of mental illness.

(c) This section expires December 31, 2002.

SECTION 4. IC 12-15-35-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. As used in this chapter, "intervention" means an action taken by the board, **the office, or the office's contractor** with a prescriber or pharmacist to inform about or to influence prescribing or dispensing practices or utilization of drugs.

SECTION 5. IC 12-15-35-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. **(a)** The drug utilization review board is established.

(b) The board may meet monthly to carry out the board's duties under this chapter.

SECTION 6. IC 12-15-35-35, AS AMENDED BY P.L.231-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 35. (a) As used in this section, "single source drug" means a covered outpatient drug that is produced or distributed under an original new drug application approved by the federal Food and Drug Administration, including a drug product marketed by any cross-licensed producers or distributors operating under the new drug application.

(b) Before the **office or** board develops **or initiates** a program to place a single source drug on prior approval, restrict the drug in its use, or establish a drug monitoring process or program to measure or restrict utilization of single source drugs other than in the SURS program, the board must meet the following conditions:

(1) Make a determination, after considering evidence and credible information provided to the board by the office and the public, that placing a single source drug on prior approval or restricting the drug's use will not:

(A) impede the quality of patient care in the Medicaid program; or

(B) increase costs in other parts of the Medicaid program, including hospital costs and physician costs.

(2) Meet to review a formulary or a restriction on a single source drug after the office provides at least thirty (30) days notification to the public that the board will review the formulary or restriction on a single source drug at a particular board meeting. The notification shall contain the following information:

(A) A statement of the date, time, and place at which the board meeting will be convened.

(B) A general description of the subject matter of the board meeting.

(C) An explanation of how a copy of the formulary to be discussed at the meeting may be obtained.

The board shall meet to review the formulary or the restriction on a single source drug at least thirty (30) days but not more than sixty (60) days after the notification.

(3) Ensure that:

(A) there is access to at least two (2) alternative drugs within each therapeutic classification, if available, on the formulary; and

(B) a process is in place through which a Medicaid recipient has access to medically necessary drugs.

(4) Reconsider the drug's removal from its restricted status or from prior approval not later than six (6) months after the single source drug is placed on prior approval or restricted in its use.

(5) Ensure that the program provides either telephone or FAX approval or denial Monday through Friday, twenty-four (24) hours a day. The office must provide the approval or denial within twenty-four (24) hours after receipt of a prior approval request. The program must provide for the dispensing of at least a seventy-two (72) hour supply of the drug in an emergency situation or on weekends.

(6) Ensure that any prior approval program or restriction on the use of a single source drug is not applied to prevent acceptable medical use for appropriate off-label indications.

(c) The board shall advise the office on the implementation of any program to restrict the use of brand name multisource drugs.

(d) The board shall consider:

(1) health economic data;

(2) cost data; and

(3) the use of formularies in the non-Medicaid markets;

in developing its recommendations to the office.

SECTION 7. IC 12-15-35-48 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 48. (a) The board shall evaluate and make recommendations to the office before August 1, 2001, on programs or initiatives that can be used by the office or through a contractor, including a pharmaceutical benefit management company, to reduce costs in the Medicaid outpatient prescription drug program**

through at least one (1) of the following programs:

(1) On-line Medicaid eligibility verification.

(2) Medicaid pharmacy claims processing.

(3) Prescriber education on cost effective use of prescription drugs through appropriate prescribing.

(4) Pharmacist education on cost effective use of prescription drugs through effective counseling of patients about the patient's pharmaceutical therapies to ensure patient compliance with the pharmaceutical therapy.

(5) Point of sale prescription drug programs to conduct drug utilization reviews for drug-drug interactions, drug-disease contraindications, drug refill notifications, and other pharmaceutical compliance measures.

(6) Identification of fraudulent activities or fraudulent claims submitted for reimbursement in the Medicaid prescription drug program.

(b) When providing the office with recommendations, the board shall evaluate whether the programs or initiatives will likely result in any of the following:

(1) An increase in other Medicaid costs, including physician services, hospital services, nursing home services, or laboratory services.

(2) Adverse health outcomes for Medicaid recipients.

(c) The office and the board shall prepare and present a quarterly report to the select joint committee on Medicaid oversight (established by P.L.130-1998). The report must contain an overview of the following:

(1) The cost savings in the Medicaid prescription drug program as a result of this chapter.

(2) Any cost increases in the Medicaid program or other state funded programs as a result of this chapter.

(3) Recommendations for improving and increasing cost effective and clinically appropriate use of prescription drugs in the Medicaid program.

The first quarterly report shall be provided not later than January 31, 2002, for the fourth quarter of 2001.

SECTION 8. IC 12-15-35-49 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 49. The office shall, in a timely manner, provide the board with information that is requested by the board and is necessary for the board to carry out the board's duties under this chapter.** ".

Page 1, line 1, delete "IC 12-15-41" and insert "IC 12-15-41.2".

Page 1, line 4, delete "41." and insert "**41.2.**".

Page 1, line 11, after "ability to" insert "**:**

(1)".

Page 1, line 11, after "develop" insert "**and maintain, if necessary,**".

Page 1, line 12, delete "." and insert "**;**

(2) develop a program that will identify geographic areas in which immunization rates are low; and

(3) implement strategies to increase immunization rates in the

areas identified under subdivision (2).".

Page 2, line 23, delete "IC 12-15-41," and insert "**IC 12-15-41.2,**".

Page 2, line 29, delete "IC 12-15-41," and insert "**IC 12-15-41.2,**".

Page 2, after line 30, begin a new paragraph and insert:

"SECTION 12. P.L.21-2000, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 15. (a) The Indiana prescription drug advisory committee is established to:

(1) study pharmacy benefit programs and proposals, including programs and proposals in other states; and

(2) make initial and ongoing recommendations to the governor for programs that address the pharmaceutical costs of low-income senior citizens.

(b) The committee consists of eleven (11) members appointed by the governor and four (4) legislative members. The term of each member expires December 31, ~~2001.~~ **2003.** The members of the committee appointed by the governor are as follows:

(1) A physician with a specialty in geriatrics.

(2) A pharmacist.

(3) A person with expertise in health plan administration.

(4) A representative of an area agency on aging.

(5) A consumer representative from ~~a~~ senior citizen advocacy organization.

(6) A person with expertise in and knowledge of the federal Medicare program.

(7) A health care economist.

(8) A person representing a pharmaceutical research and manufacturing association.

(9) Three (3) other members as appointed by the governor.

The four (4) legislative members shall serve as nonvoting members. The speaker of the house of representatives and the president pro tempore of the senate shall each appoint two (2) legislative members, who may not be from the same political party, to serve on the committee.

(c) The governor shall designate a member to serve as chairperson. A vacancy with respect to a member shall be filled in the same manner as the original appointment. Each member is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties. The expenses of the committee shall be paid from the Indiana pharmaceutical assistance fund created by IC 4-12-8. The office of the secretary of family and social services shall provide staff for the committee. The committee is a public agency for purposes of IC 5-14-1.5 and IC 5-14-3. The advisory council is a governing body for purposes of IC 5-14-1.5.

(d) ~~Not later than September 1, 2000,~~ The board shall make **periodic** program design recommendations to the governor and the family and social services administration concerning the following:

(1) Eligibility criteria, including the desirability of incorporating an income factor based on the federal poverty level.

(2) Benefit structure.

(3) Cost-sharing requirements, including whether the program

should include a requirement for copayments or premium payments.

(4) Marketing and outreach strategies.

(5) Administrative structure and delivery systems.

(6) Evaluation.

(e) The recommendations shall address the following:

(1) Cost-effectiveness of program design.

(2) Coordination with existing pharmaceutical assistance programs.

(3) Strategies to minimize crowd-out of private insurance.

(4) Reasonable balance between maximum eligibility levels and maximum benefit levels.

(5) Feasibility of a health care subsidy program where the amount of the subsidy is based on income.

(6) Advisability of entering into contracts with health insurance companies to administer the program.

(f) The committee may not recommend the use of funds from the Indiana pharmaceutical assistance fund for a state prescription drug benefit for low-income senior citizens if there is a federal statute or program providing a similar prescription drug benefit for the benefit of low-income senior citizens.

(g) **When the committee considers and makes recommendations concerning possible program design modifications, the committee shall make every effort to first expand the current program design to provide an increased benefit that will cover a higher percentage of the out of pocket costs paid by the recipient for the recipient's prescription drugs.**

(h) This SECTION expires December 31, ~~2001.~~ **2003.**

SECTION 13. [EFFECTIVE JULY 1, 2001] **(a) Not later than March 1, 2003, the office of Medicaid policy and planning established by IC 12-8-6-1 shall report to the Indiana commission on mental health, or another committee that is:**

(1) studying issues related to mental health; and

(2) designated by the legislative council;

regarding the cost effectiveness of IC 12-15-26-3 and IC 12-15-26-4, both as added by this act.

(b) This SECTION expires June 30, 2003.

SECTION 14. [EFFECTIVE UPON PASSAGE] **(a) Before July 1, 2002, the division of family and children shall adopt rules under IC 4-22-2 to require each child who is less than eighteen (18) years of age and who resides in a family that receives monthly cash assistance payments through the federal Temporary Assistance to Needy Families program to receive the immunizations recommended by the American Academy of Pediatrics unless the parent or other adult caretaker relative:**

(1) refuses to have the child immunized because of religious beliefs; or

(2) provides documented medical evidence from a licensed physician that the immunization is not available or appropriate for the child.

(b) This SECTION expires July 1, 2002.

SECTION 15. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to EHB 2100 as printed April 6, 2001.)

Conference Committee Report
on
Engrossed House Bill 2100

Signed by:

Representative Crosby Chairperson	Senator Server
Representative Budak	Senator Rogers
House Conferees	**Senate Conferees**